

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6249 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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NS PATEL

Versus

CHAIRMAN & MANAGING DIRECTOR

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Appearance:

MR DEVESH A BHATT for Petitioner

MR MK VAKHARIA for Respondent No. 1, 2, 3, 4, 5

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/04/99

ORAL JUDGEMENT

1. Learned counsel for the petitioner raised only contention that the officer who passed the order of penalty given to the petitioner was not competent to pass the said order.

2. Learned counsel for the respondents, on the other hand, contended that under document at page No.119 which the respondents filed along with their reply, AGM (OSDs)

were accepted to be disciplinary authority for award staff and officers in the areas coming under their jurisdiction where they are designated as Competent Authority in their capacity as Asstt. General Manager.

3. Counsel for the petitioner submitted that it was only a settlement between the Management and the Union but no order has been passed designating the respective AGM (OSDs) to act as disciplinary authority for award staff and officers.

4. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties.

5. For more than two reasons this special civil application deserves to be dismissed. This point has not been raised by the petitioner in the appeal which he filed against the order of the disciplinary authority. So the petitioner was not aggrieved of that authority who passed this order on the ground now what the learned counsel for the petitioner is pressing before this court. It is true that document at page no.119 is an agreement but in principle it has been agreed and thereafter this order has been passed by the said disciplinary authority and in these facts, it cannot be taken that otherwise any prejudice will be caused to the petitioner. The substance and not the form has to be considered. The petitioner has been punished for the misconduct. That is different matter that for such a serious misconduct, lenient view is taken.

6. The special civil application is dismissed. Rule is discharged with no order as to costs.

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zgs/-